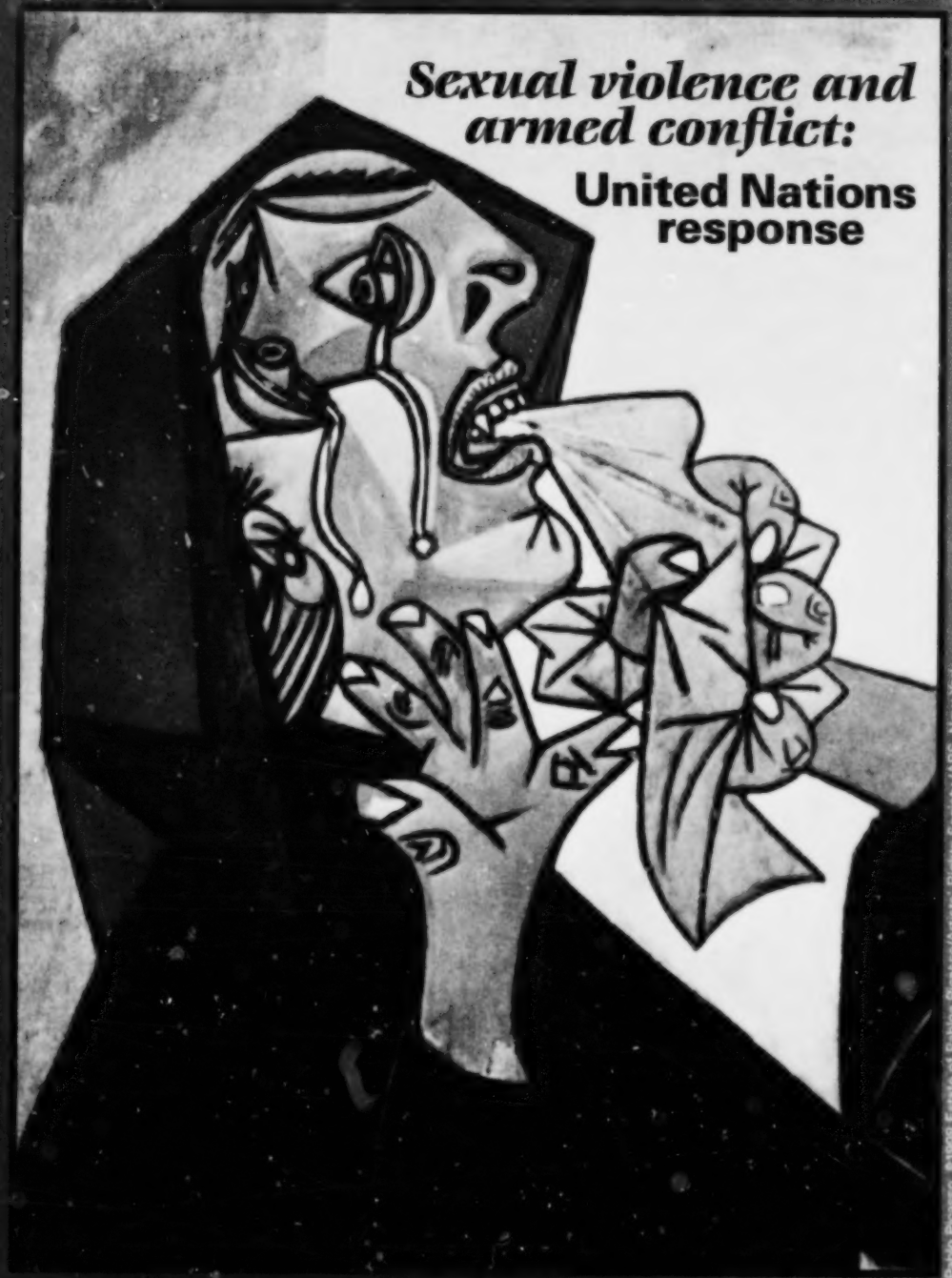
women 2000

PUBLISHED TO PROMOTE THE GOALS OF THE BEIJING DECLARATION AND THE PLATFORM FOR ACTION

April 1998

Sexual violence and armed conflict: United Nations response



Pablo Picasso, ©1998 Estate of Pablo Picasso/Artists Rights Society (ARS), New York

UNITED NATIONS

Division for the Advancement of Women

Department of Economic and Social Affairs

Sexual violence and armed conflict: United Nations response

Sexual violence during armed conflict is not a new phenomenon. It has existed for as long as there has been conflict. In her 1975 book Against Our Will: Men, Women and Rape, *Susan Brownmiller presented stark accounts of rape and other sexual atrocities that have been committed during armed conflict throughout history. While historically very few measures have been taken to address sexual violence against women committed during armed conflict, it is not true to say that there has always been complete silence about the issue. Belligerents have often capitalized upon the abuse of their women to garner sympathy and support for their side, and to strengthen their resolve against the enemy. Usually, the apparent concern for these women vanishes when the propaganda value of their suffering diminishes, and they are left without any prospect of redress. It is true to say that the international community has, for a long time, failed to demonstrate a clear desire to do something about the problem of sexual violence during armed conflict. The turning point came in the early 1990s as a result of sexual atrocities committed during the conflict in the former Yugoslavia, and it seems that, finally, the issue has emerged as a serious agenda item of the international community.*

INTRODUCTION

Many of the steps taken to address sexual violence against women during armed conflict have occurred within the framework of the United Nations. This issue of ***women***2000 focuses upon some of these developments. Two points must be made at the outset. First, sexual violence during armed conflict affects men as well as women. However, it is clear that women are more likely to be subjected to sexual violence than men. Women are also targeted for different reasons than men, and they are affected by the experience in very different ways than men. For a woman, there is the added risk of pregnancy as a result of rape. In addition, women occupy very different positions in society than men, and are treated differently as a result of what has happened to them. Women are frequently shunned, ostracized and considered unmarriageable. Permanent damage to the reproductive system, which often results from sexual violence, has different implications for women than for men. Thus, while it is imperative to acknowledge and redress the trauma suffered by both men and women, it is important to recognize their different experiences when responding to the problem. Secondly, it must be emphasized that sexual violence is only one of the issues that arise when considering women's experience of armed conflict. For example, more women than men become refugees or displaced persons during conflict, and women's primary responsibility for agriculture and water collection in many societies renders them particularly vulnerable to injury from certain types of weapons used in conflict, such as landmines. Further, women's overall position of disadvantage within the community means that the general hardships accompanying armed conflict frequently fall more heavily on women than on men.

Towards the end of 1992, the world was stunned by reports of sexual atrocities committed during the armed conflict in the former Yugoslavia. Newspaper headlines decried: "Serbian 'rape camps': Evil Upon Evil" and "Serben vergewaltigen auf obersten Befehl" (Serbs rape on highest orders).[1] The media reported that rape and other sexual atrocities were a deliberate and systematic part of the Bosnian Serb campaign for victory in the war. A perception was generated that detention camps had been set up specifically for the purpose of raping women, and that the policy of rape had been planned at the highest levels of the Bosnian Serb military structure. Strong and persistent demands for a decisive response to these outrages came from around the globe.

Women who serve as combatants experience armed conflict differently than male combatants, and the culture of militarism impacts upon women in particular ways.[2] Although not within the scope of the present issue, the many other ways that armed conflict affects women warrant serious attention and concern.

In the first part of this issue, consideration is given to the failure of the international community to address the issue of wartime sexual violence during the early years of the UN. Developments are traced to the early 1990s, when the international community finally recognized that human rights violations committed against women during armed conflict, including sexual violence, violate fundamental principles of international human rights and humanitarian law. In the second part of this issue, the manner in which sexual violence during armed conflict emerged as an item of serious concern within the UN is examined. The role of women's NGOs in exerting pressure for change is highlighted, and the UN's response described. The concluding section examines how the issue may be advanced in the next century.

SEXUAL VIOLENCE DURING ARMED CONFLICT: A HIDDEN ATROCITY?

The nature of sexual violence during armed conflict

The term "sexual violence" refers to many different crimes, including rape, sexual mutilation, sexual humiliation, forced prostitution and forced pregnancy. These crimes are motivated by a myriad of factors. For example, a commonly held view throughout history has been that women are part of the "spoils" of war to which soldiers are entitled. Deeply entrenched in this notion is the idea that women are property — chattels available to victorious warriors. Sexual violence may also be looked upon as a means of troop mollification. This is particularly the case where women are forced into military sexual slavery. Another reason that sexual violence occurs is to destroy male, and thereby community, pride. Men who have failed to "protect their women" are considered to be humiliated and weak. It can also be used as a form of punishment, particularly where women are politically active or are associated with others who are politically active. Sexual violence can further be used as a means of inflicting terror upon the population at large. It can shatter communities and drive people out of their homes. Sexual violence can also be part of a genocidal strategy. It can inflict life-threatening bodily and mental harm and form part of the conditions imposed to bring about the ultimate destruction of an entire group of people.

Sexual violence and the Second World War

Historical records are largely silent about the occurrence of sexual violence during the Second World War. This is not because sexual violence did not occur, but for a variety of other reasons. Part of the problem is that sexual violence was perpetrated by all sides to the conflict. Consequently, it was difficult for one party to make allegations against the other at the conclusion of hostilities. Moreover, sexual violence had long been accepted as an inevitable, albeit unfortunate, reality of armed conflict. This was compounded by the fact that in the late 1940s sexual matters were not discussed easily or openly, and there was no strong, mobilized women's movement to exert pressure for redress.

Only in recent years have writers and others begun to reconsider the issue of sexual violence during the Second World War. At the centre of this has been the belated recognition of crimes committed against many thousands of Asian women and girls who were forced into military sexual slavery by the Japanese Army. They have become known as "comfort women". In 1992, the Japanese Government officially apologized for compelling these women into military sexual slavery, and has written to each surviving "comfort woman". The UN's Special Rapporteur on violence against women has reported that these women and girls endured: *". . . multiple rape on an everyday basis in the 'military comfort houses' . . . Allegedly, soldiers were encouraged by their commanding officers to use the 'comfort women' facilities rather than civilian brothels 'for the purpose of stabilizing soldiers' psychology, encouraging their spirit and protecting them from venereal infections', as well as a measure to prevent looting and widespread raping during military attacks on villages."*[3]

> ***". . . memorable experiences are when I speak to victims, especially when I spoke to the comfort women in Korea. I don't think I have ever heard such horrendous tales . . . [Special Rapporteurs] are not supposed to cry, but it is terribly difficult."***
>
> Radhika Coomaraswamy
> Special Rapporteur on violence against women, Interview in *Libertas*, International Centre for Human Rights and Democratic Development
> Dec 1997, vol. 7:2, p. 7.

The Special Rapporteur has stated that the tales of the "comfort women" are among the most horrendous she has ever heard. Yet the stories of these women remained buried for nearly 50 years.

Post-Second World War crimes trials

Following the Second World War, two multinational war-crimes tribunals were established by the Allies to prosecute suspected war criminals, one in Tokyo and the other in Nuremberg. Despite the fact that rape and other forms of sexual violence had been prohibited for centuries by the laws of armed conflict, no reference was made to sexual violence in the

Charters of either the Nuremberg or the Tokyo tribunals. Although some evidence of sexual atrocities was received by the Nuremberg Tribunal, sexual crimes committed against women were not expressly charged or referred to in the Tribunal's Judgement. Indictments before the Tokyo Tribunal did expressly charge rape, evidence was received, and the Tokyo Judgement referred to rape. For example, evidence of rape during the Japanese occupation of Nanking was presented during the trial of General Matsui, who had the command of Japanese forces there. Matsui was convicted of war crimes and crimes against humanity based in part on evidence of rape committed by his troops. However, none of the women who had been raped were actually called to testify, and the subject of women's victimization was given only incidental attention.

Additional war crimes trials were held pursuant to Control Council Law No. 10, which was adopted by the Allies in 1945 to provide a basis for the trial of suspected Nazi war criminals who were not dealt with at Nuremberg. This document represented an advance over the Charters of the Nuremberg and Tokyo Tribunals in that rape was explicitly listed as one of the crimes over which the Control Council had jurisdiction. However, no charges of rape were actually brought pursuant to Control Council Law No.10.

The Geneva Conventions and Additional Protocols

Although not a UN initiative, the four Geneva Conventions adopted in 1949 are relevant to the present discussion. Following the horrors of the Second World War, these Conventions were initiated by the International Committee of the Red Cross in order to improve the situation of war victims. In 1977 two Additional Protocols were adopted to extend and strengthen the protection provided in the Geneva Conventions. These treaties form part of the law of armed conflict, and contain certain provisions that apply specifically to women. Many of these provisions seek to protect women in their capacity as expectant mothers, maternity cases and nursing mothers; others regulate the treatment of female prisoners. There are also provisions dealing explicitly with sexual violence.

Control Council Law No.10, Article II (1)(c), ***gave the Council jurisdiction over:***

"Atrocities and offences, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, **rape**, *or other inhumane acts committed against any civilian population, or persecutions on political, racial or religious grounds whether or not in violation of the domestic laws of the country where perpetrated." (emphasis added)*

Problems with provisions of the law of armed conflict that prohibit sexual violence

In the 1949 Geneva Conventions and Additional Protocol I, certain crimes are designated as "grave breaches". Classification of a particular crime as a grave breach is significant because States have a duty to search for persons who are alleged to have committed grave breaches and, if they find them within their territory, to bring them before their courts or, alternatively, to extradite them for prosecution. The effect of the grave breach system is to create a hierarchy, with some violations of the law of armed conflict considered more egregious than others. Sexual violence is not expressly designated as a grave breach, although the view that sexual violence fits within other categories of grave breaches, such as "wilfully causing great suffering or serious injury to body or health", and "torture or inhuman treatment", has gained acceptance. Nonetheless, the absence of express reference to sexual violence as a grave breach is a reflection of the international community's historical failure to appreciate the seriousness of sexual violence during armed conflict.

Another problem with provisions of the Geneva Conventions and Additional Protocols is that they characterize rape and other forms of sexual violence as attacks against the "honour" of women, or at most as an outrage upon personal dignity. The implication is that "honour" (or dignity) is something lent to women by men, and that a raped woman is thereby dishonoured. Failure of these instruments to categorize sexual violence as a violent crime that violates bodily integrity presents a serious obstacle to addressing crimes of sexual violence against women. It directly reflects and reinforces the trivialization of such offences. In addition, as one writer has pointed out, the provisions are protective rather than prohibitive.[4] The only requirement is for particular care to be taken, presumably by men, to protect women against sexual violence. Thus the provisions appear to be more about the role of the "male warrior" during armed conflict than about recognizing sexual violence as a violation of the rights of women and prohibiting it.

UN responses to sexual violence

One of the first major references within the UN system to women and armed conflict was in1969, when the Commission on the Status of Women began to consider whether special protection should be accorded to particularly vulnerable groups, namely women and children, during armed conflict and emergency situations. Following this, the Economic and Social Council (ECOSOC) asked the UN General Assembly (GA) to adopt a declaration on the topic. The GA responded by adopting the Declaration on the Protection of

What is the "law of armed conflict"?

- The body of international legal principles found in treaties and in the practice of States that regulates hostilities in situations of armed conflict. "Armed conflict" is the preferred legal term, rather than the term "war", because the law applies irrespective of whether there has been a formal declaration of war.
- Other terms with the same meaning include "international humanitarian law", "the humanitarian laws of war" and "*jus in bello*".
- Different rules apply depending upon whether a conflict is internal (i.e. a civil war) or international (i.e. a war between two or more States or State-like entities). Internal conflicts are regulated by fewer laws than international conflicts.

Is the law of armed conflict different from international human rights law?

- Yes, the law of armed conflict and international human rights law have historically developed as separate bodies of law, with the former directed at the alleviation of human suffering in times of armed conflict and the latter directed at the alleviation of human suffering during times of peace.
- Since the establishment of the UN, there has been a tendency to regard the law of armed conflict as part of the broader international human rights law framework.

Does the law of armed conflict deal explicitly with sexual violence?

Yes, the relevant provisions are:

- Geneva Convention IV Relative to the Protection of Civilian Persons; Article 27:

"Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault."

- Additional Protocol I of 1977; Article 76(1):

"Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault."

- Additional Protocol II of 1977; Article 4(2)(e) prohibits:

"Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault."

Women and Children in Emergency and Armed Conflict in 1974. The Declaration recognizes the particular suffering of women and children during armed conflict. It emphasizes the important role that women play "in society, in the family and particularly in the upbringing of children", and the corresponding need to accord them special protection. It also urges States to comply with their obligations under international instruments, including the 1949 Geneva Conventions, that offer important guarantees of protection for women and children.[5] There is no explicit reference to women's vulnerability to sexual violence during armed conflict. Yet, as the Special Rapporteur on violence against women has reported, there is evidence that, in 1971, rape was committed on a massive scale during the conflict in Bangladesh.[6] In the light of this, the omission of any explicit reference to sexual violence in the Declaration just a few years later is notable. Clearly, at the time the Declaration was adopted, concern over the situation of women during armed conflict was closely connected with their role as mothers and caregivers, and very limited recognition was given to issues affecting women in their own right. However, the Declaration does make a general plea for compliance with the laws of armed conflict. The Fourth Geneva Convention of 1949 was in existence at the time and, as described above, this expressly addresses rape. The Declaration also stipulates that all necessary steps shall be taken to prohibit, *inter alia*, degrading treatment and violence, which may be considered implicitly to encompass sexual violence.[7]

Throughout the 1980s, the UN continued to refer to the particular vulnerability of women during armed conflict, but still without any explicit reference to the prevalence of sexual violence. The practice of considering women and children as one category demonstrated a continuing preoccupation with women as mothers and caregivers. For example, commencing in the 1980s ECOSOC approved a series of resolutions on the situation of Palestinian women and children in the occupied Arab territories, as well as the situation of women and children in Namibia and women and children living under apartheid. These resolutions recognized the poor living conditions of women, but did not refer to their vulnerability to sexual violence. It seems unlikely that, in contrast to the majority of other conflicts throughout history, sexual violence was not a feature of these particular conflicts.

At the end-of-decade Conference held in Nairobi in 1985, the Forward-looking Strategies for the Advancement of Women, adopted to provide a blueprint for the advancement of women to the year 2000, referred to the especially vulnerable situation of women affected by, *inter alia*, armed conflict, including the threat of physical abuse. The general vulnerability of women to sexual abuse and rape in everyday life was recognized, but sexual violence was not specifically linked to armed conflict.[8] Even in the mid-1980s, sexual violence during armed conflict largely remained unrecognized.

THE 1990S: INTERNATIONAL CONCERN OVER SEXUAL VIOLENCE DURING ARMED CONFLICT

The Persian Gulf War and the creation of the United Nations Compensation Commission

Some of the first steps towards progress on the issue of wartime sexual violence taken by the UN have gone almost unnoticed. As in the case of other conflicts, when Iraq invaded Kuwait in 1990, sexual violence was a frequent occurrence during the ensuing hostilities. A UN report documented the prevalence of rape perpetrated against Kuwaiti women by Iraqi sol-

"From multiple testimony and the witness statements submitted by the Prosecutor to this Trial Chamber, it appears that women (and girls) were subjected to rape and other forms of sexual assault during their detention at Susica camp. Dragan Nikolic and other persons connected with the camp are alleged to have been directly involved in some of these rapes or sexual assaults. These allegations do not seem to relate solely to isolated instances.

"The Trial Chamber feels that the prosecutor may be well advised to review these statements carefully with a view to ascertaining whether to charge Dragan Nikolic with rape and other forms of sexual assault, either as a crime against humanity or as grave breaches or war crimes."

Judge Jorda, Judge Odio Benito and Judge Riad, *In re Dragan Nikolic: Decision of Trial Chamber I, Review of Indictment Pursuant to Rule 61* (The Prosecutor v. Dragan Nikolic) 1995 I.C.T.Y., No IT-94-2-R61 (Oct. 20), para. 33.

diers during the invasion.[9] Although the UN Security Council did not expressly refer to sexual violence against women in its resolutions relating to the Persian Gulf conflict, it did create the United Nations Compensation Commission (UNCC) to compensate victims who suffered damage as a result of Iraq's unlawful invasion of Kuwait. The UNCC is funded primarily by a 30 per cent levy on Iraq's annual oil exports. Initially, Iraq refused to resume oil exports under the conditions imposed by the UN, thereby crippling the capacity of the fund to operate as intended. However, in 1995, an agreement was reached known as the "oil-for-food" arrangement, and money has subsequently become available for the payment of claims. The UNCC determined that it would compensate for "serious personal injury", which expressly includes physical or mental injury arising from sexual assault. Some claims asserting rape by members of the Iraqi military forces were filed with the UNCC, and guidelines were adopted to facilitate proof of these claims, making it much easier for women to receive compensation. In one case, a woman claimed she had been subjected to sexual assault by Iraqi soldiers and suffered a miscarriage as a result. The woman requested that her name be withheld from her claim. The Government filing the claim on her behalf could provide confirmation of her identity and, recognizing the difficulties faced by sexual assault victims, the Panel of Commissioners recommended compensation for her claim despite the absence of her name.[10]

The conflict in the former Yugoslavia

It was not until sexual atrocities were committed during the conflict in the former Yugoslavia that consistent references began to appear throughout the UN to the problem of sexual violence during armed conflict. Security Council resolution 798 of 18 December 1992 referred to the "massive, organized and systematic *detention and rape of women*, in particular *Muslim women*, in Bosnia and Herzegovina" (emphasis added). Similar resolutions followed. As part of its response to the conflict, the Security Council established a Commission of Experts (Yugoslav Commission) to investigate violations of international humanitarian law committed in the former Yugoslavia. In its Interim Report, the Yugoslav Commission listed systematic sexual assault as one of the priority areas in its ongoing investigations,[11] and it subsequently collected information regarding approximately 1,100 reported cases of sexual violence. Most of the cases had occurred in Bosnia and Herzegovina between April and November 1992. In its Final Report, the Yugoslav Commission concluded that, although all sides to the conflict had perpetrated sexual violence, the vast majority of the victims were Bosnian Muslims, the vast majority of the perpetrators were Bosnian Serbs, and Serbs reportedly ran over 60 per cent of the detention sites where sexual assault occurred. According to the Yugoslav Commission, there was strong, although not conclusive, evidence of a systematic pattern of sexual assault by the Bosnian Serbs.[12]

The UN Commission on Human Rights appointed Mr. Tadeusz Mazowiecki as Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia. In January 1993, the Special Rapporteur dispatched an international team of medical experts to investigate rape[13] and, in February 1993, he endorsed the team's findings that rape had been used as an instrument of ethnic cleansing in Bosnia and Herzegovina and in Croatia, and that persons in positions of power appeared to have made no effort to prevent these abuses.[14]

The ad hoc war crimes tribunal for the former Yugoslavia

In 1993, the Security Council created an ad hoc war crimes tribunal (Yugoslav Tribunal) to prosecute persons suspected of having committed violations of international humanitarian law during the war in the former Yugoslavia. The Yugoslav Tribunal is a subsidiary body of the Security Council, and is located in The Hague, Netherlands. At the time of its creation, it was clearly envisaged that the Yugoslav Tribunal would prosecute crimes of sexual violence, and this is reflected in the governing statute of the Tribunal, which expressly refers to rape as constituting a crime against humanity.

An effort has also been made to structure the Office of the Prosecutor (OTP) of the Yugoslav Tribunal in a manner that responds to crimes committed against women. The position of legal adviser for gender issues was created to ensure that the large num-

ber of sexual violence allegations would be properly addressed. Patricia Sellers was appointed to fill this position. There is no doubt that the appointment of a legal adviser for gender issues has greatly improved the Yugoslav Tribunal's approach to prosecuting sexual violence, and also provided an important focus for international dialogue on the issue. In addition, one investigation team has been established specifically to investigate sexual violence,[15] and all investigation teams are comprised of both women and men. This is especially important because, as Ms. Sellers has pointed out, "teams that are gender-integrated tend to look at the sexual assault component of investigations earlier and with more profundity".[16] Even so, there have been some problems with sexual violence investigations by the OTP of the Yugoslav Tribunal. A case in point is the indictment issued against Dragan Nikolic in relation to events which took place at the Susica detention camp in eastern Bosnia and Herzegovina.[17] Although the indictment contained no charges of sexual violence, during a reconfirmation of the indictment before the Trial Chamber, several witnesses gave evidence about sexual violence that had occurred at the Susica camp. On the basis of this evidence, the Trial Chamber invited the Prosecutor to amend the indictment to include charges of sexual violence. The question must be asked why these charges of sexual violence were not investigated earlier.

A commitment to prosecuting crimes of sexual violence is reflected in the Yugoslav Tribunal's Rules of Procedure and Evidence (Yugoslav Rules), which provide a series of measures designed to protect victims and witnesses testifying before the Tribunal. It was largely the anticipated prosecutions for sexual violence that prompted these provisions.

The Yugoslav Tribunal has been progressive when it comes to victim and witness protection. At the Prosecutor's request, a range of protective measures for victims and witnesses have been adopted, including the use of pseudonyms; the redaction of court transcripts to delete reference to the victim's identity; the giving of testimony in camera and by one-way closed-circuit television; scrambling of victims' and witnesses' voices and images; and prohibitions on photographs, sketches or videotapes of victims and witnesses.[18] The most controversial aspect of the protective measures granted by the Yugoslav Tribunal has been the decision to allow, provided that certain conditions are met, the identity of some victims and witnesses to be kept from the accused even at the trial stage.[19] The Yugoslav Rules also provide for the establishment of a Victims and Witnesses Unit to recommend protective measures for victims and witnesses, and to provide counselling and support.[20] This Unit became operational in April 1995. At the time of its creation, it was envisaged that the Unit would deal primarily with female victims of sexual violence, and a commitment was made to hiring qualified women wherever possible.[21] The Yugoslav Rules also regulate evidence in cases of sexual violence. Rule 96 deals with issues of corroboration, the defence of consent and evidence of the prior sexual conduct of the victim.

The OTP of the Yugoslav Tribunal has issued a number of indictments charging sexual violence committed against both women and men during the conflict in the former Yugoslavia. In June 1996, the first indictment which deals exclusively with sexual violence was issued in relation to events that took place in the municipality of Foca, to the south-east of Sarajevo. This indictment alleges that when the area was taken over by Serb forces in April 1992, many Muslim women were detained in houses, apartments, schools and other buildings, and were subjected to repeated rape by soldiers. The indictment also alleges that women and girls were enslaved in houses run like brothels, where they were also forced to perform domestic work, such as washing the soldiers' uniforms.[22] Two months into the first prosecution brought before the Yugoslav Tribunal, the Tadic case, the Trial Chamber heard the first testimony in history, at the international level, from women regarding wartime rape. Although Tadic had been initially charged with raping a female prisoner at the Omarska camp, the charge was withdrawn prior to the commencement of the trial. However, evidence of rape was still used as general evidence against Tadic. The *Celebici* case, which is currently proceeding before the Yugoslav Tribunal and is expected to conclude in 1998, involves charges of rape.

"In the light of the particular nature of the crimes committed in the former Yugoslavia, it will be necessary for the International Tribunal to ensure the protection of victims and witnesses. Necessary protection measures should therefore be provided in the rules of procedure and evidence for victims and witnesses, especially in cases of rape or sexual assault."

Secretary-General's Report on Aspects of Establishing an International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia (Report of the Secretary-General Pursuant to Paragraph 2 of Security Council Resolution 808 (1993), S/25704, 1993, para. 108.

Assessing the progress

There is no doubt that the UN's response to sexual violence in the former Yugoslavia constitutes a long overdue acknowledgment that sexual violence during armed conflict is a crime that must be addressed. The problem has been formally recognized, but concerns remain about the

extent to which women affected by sexual violence have actually been assisted as a result. More than four years have elapsed since the creation of the Yugoslav Tribunal, but no defendant has yet been convicted of rape. Part of the problem has been the initial inability to take defendants into custody, which frustrated the Yugoslav Tribunal's work for a number of years. This situation began to change in the second part of 1997, when several covert arrests by NATO resulted in suspects being transferred to The Hague. In addition, 10 Bosnian Croats surrendered to the Yugoslav Tribunal in August 1997, approximately doubling the number of defendants in custody. In February 1998, two Bosnian Serbs surrendered to the Yugoslav Tribunal, being the first Serb indictees to do so. As at 16 February 1998 there were 22 defendants in the Scheveningen detention facility in The Hague. As a result, the Tribunal's workload has increased dramatically, triggering renewed hope regarding the utility of the endeavour as a whole. It also improves the prospect of bringing to justice those persons accused of committing sexual violence during the conflict in the former Yugoslavia. Some of the defendants recently taken into custody face charges of sexual violence. For example, Anto Furundzija, who was arrested in December 1997, faces those charges. It is alleged that he was a commander who was present while a prisoner was sexually assaulted, and that he did nothing to curtail the assault.[23] However, it is still the case that most of the indictees charged with sexual violence are not in custody.

Less encouraging is the likelihood that women who have been subjected to sexual violence will ever receive compensation for their suffering. The Yugoslav Tribunal can order the restitution of property acquired by criminal conduct.[24] This is an important power, because the misappropriation of dwellings, livestock and other valuables is a frequent and devastating component of conflict. However, the Yugoslav Tribunal does not have power to order compensation as part of the penalties imposed upon convicted persons, nor has a parallel claims commission, like the UNCC, for example, been created. Judgements of the Tribunal do constitute conclusive proof of criminal responsibility for the injury, but the victim is required to pursue compensation claims through domestic channels. This approach assumes that domestic systems have in place the appropriate structure to provide victims with compensation. This is frequently not the case, especially in countries recovering from armed conflict.

Despite these limitations, there is now substantial evidence that the mindset of the international community has changed regarding sexual violence during armed conflict. Over the course of half a century, the issue of women and armed conflict has developed within the UN framework from a limited concern with the situation of women as mothers and caregivers to a recognition that sexual violence against women and girls is a violation of international human rights and humanitarian law that must be addressed. As described below, the issue has also been taken up in a number of other forums within the UN system.

The Vienna Conference on Human Rights, 1993

The 1993 UN World Conference on Human Rights, held in Vienna, was a watershed for women's human rights. Of particular significance was the recognition that violence against women, such as domestic abuse, mutilation, burning and rape, is a human rights issue. Previously, these acts had been regarded as private matters, and therefore not appropriate for government or international action. Even the Convention on the Elimination of all Forms of Discrimination Against Women (Women's Convention), adopted in 1979, has no specific provision on violence against women. In 1985, the Nairobi Forward-looking Strategies had acknowledged the problem of violence against women, and urged Governments to respond, but there was no explicit recognition that violence against women is a human rights issue. In the years following Nairobi, the issue of violence against women received consideration within ECOSOC, particularly by the Commission on the Status of Women. In addition, in 1992 the Committee on the Elimination of Discrimination Against Women (CEDAW), the body created to monitor the Women's Convention, adopted a general recommendation on "Violence against Women".[25] These developments were due in part to intensified efforts by women's NGOs to draw attention to the problem. The International Women's Rights Action Watch, established to monitor the Women's Convention and the activities of CEDAW, was particularly active on the issue, as was the International League for Human Rights.[26]

At the Vienna Conference in 1993, a number of women's NGOs, including Women in Law and Development in Africa (WiLDAF), the Asian Women's Human Rights Council and the Latin American Committee for Women's Rights (CLADEM), coordinated their action under the umbrella of the Center for Women's Global Leadership, and were responsible for highlighting the issue of violence against women.[27] At that time, reports

The Vienna Declaration and Programme of Action, 1993

Article 38: "Violations of the human rights of women in situations of armed conflict are violations of the fundamental principles of international human rights and humanitarian law. All violations of this kind, including in particular murder, systematic rape, sexual slavery, and forced pregnancy, require a particularly effective response."

of sexual violence committed against women in the former Yugoslavia had flooded the media. The accompanying worldwide outrage provided powerful support for NGO arguments that violence against women is a fundamental human rights violation, of concern to the international community at large. This convergence of factors is reflected in the text of the Vienna Declaration and Programme of Action, adopted at the 1993 conference. The vulnerability of women to sexual violence during armed conflict is explicitly recognized and condemned as a human rights violation requiring a "particularly effective response".[28]

At the Vienna Conference, a Tribunal organized by NGOs heard testimony regarding violations of women's human rights around the world, including sexual violence during armed conflict. That testimony included statements from former "comfort women", Palestinian, Somali and Peruvian women, as well as women from the former Yugoslavia, who had been invited by the organizers to "testify".[29]

The Declaration on the Elimination of Violence against Women

Developments regarding the problem of violence against women coalesced in December 1993 when the General Assembly adopted the Declaration on the Elimination of Violence against Women. The Declaration identifies three main categories of violence against women, namely physical, sexual and psychological violence occurring in the family, within the general community, and that perpetrated or condoned by the State. It explicitly recognizes that women in conflict situations are especially vulnerable to violence.[30]

The Special Rapporteur on violence against women

In 1994 the Commission on Human Rights appointed a Special Rapporteur on violence against women, its causes and consequences, and Radhika Coomaraswamy of Sri Lanka was named to fill the position. The Special Rapporteur has divided her reports to reflect the three main categories of violence identified in the Declaration on the Elimination of Violence against Women. In her preliminary report, the Special Rapporteur identified sexual violence against women during armed conflict as one of the areas to be given consideration in her future report under the third category, namely violence perpetrated or condoned by the State. The Special Rapporteur is due to submit this report in 1998. It will include information collected by Ms. Coomaraswamy during visits to Rwanda, Afghanistan and Haiti.[32]

The Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during armed conflict

Consideration has been given to the issue of sexual violence by the UN Subcommission on the Prevention of Discrimination and the Protection of Minorities. In September 1993, Ms. Linda Chavez, a member of the Subcommission, submitted a preparatory document on the "Question of Systematic Rape and Sexual Slavery and Slavery-like Practices During Wartime."[33] She subsequently submitted a working paper on the topic,[34] and following this the Subcommission decided that the topic warranted further consideration. Accordingly, Ms. Chavez was appointed as the Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict. In July 1996 Ms. Chavez submitted her preliminary report.[35] The final report on the topic will be completed by Ms. Gaye McDougal in 1998.

The Fourth World Conference on Women

At the Fourth World Conference on Women, held in Beijing in November 1995, sexual violence against women during armed conflict was a major theme. This is reflected in the Beijing Declaration and Platform for Action, which identifies women and armed conflict as one of the 12 critical areas of concern to be addressed by Member States, the international community and civil society.[36]

An NGO tribunal, similar to the one held during the Vienna Conference, was held at Beijing, and one session dealt with human rights abuses against women in conflict situations. Among the stories told were those of the former "comfort women" and women from Algeria, Uganda and Rwanda.[37]

Beijing Platform for Action, 1995

Para. 135: "While entire communities suffer the consequences of armed conflict and terrorism, women and girls are particularly affected because of their status in society and their sex. Parties to the conflict often rape women with impunity, sometimes using systematic rape as a tactic of war and terrorism. The impact of violence against women and violation of the human rights of women in such situations is experienced by women of all ages, who suffer displacement, loss of home and property, loss or involuntary disappearance of close relatives, poverty and family separation and disintegration, and who are victims of acts of murder, terrorism, torture, involuntary disappearance, sexual slavery, rape, sexual abuse and forced pregnancy in situations of armed conflict, especially as a result of policies of ethnic cleansing and other new and emerging forms of violence. This is compounded by the life-long social, economic and psychologically traumatic consequences of armed conflict and foreign occupation and alien domination."

Platform for Action, Critical Area E: Women and Armed Conflict

Sexual violence in Rwanda

It appears from these developments that sexual violence is no longer the forgotten crime of armed conflict. The world has expressed its determination that sexual violence will no longer be accepted as an inevitable by-product of war. Women increasingly have a chance to have their suffering addressed. Or so it would seem. Yet in 1994, during the genocidal conflict in Rwanda, it is estimated, many thousands of women were subjected to sexual violence. According to the reports, women were raped, mutilated, forced into sexual slavery and taken as "wives" by their captors. There are also reports of women being bought and sold among the *interahamwe* (the term used for collective militia groups in Rwanda).[38] However, for a long time, the international community remained silent. Neither the Security Council nor the Preliminary Report of the Commission of Experts established by the Security Council to investigate violations of international humanitarian law during the conflict in Rwanda (Rwanda Commission) referred to sexual violence.[39] The NGO community was ultimately responsible for insisting that the international community place the issue on its agenda. Information about the rape and abduction of women and girls provided by African Rights was referred to in the Final Report of the Rwanda Commission. The Final Report states that rape is an egregious breach of international humanitarian law and a crime against humanity.[40] Overall, however, the issue was given minimal consideration by the Rwanda Commission.

NGO information on sexual violence in Rwanda was also referred to in some of the later reports of Mr. René Degni-Ségui, the Human Rights Commission's Special Rapporteur for Rwanda. In January 1996 the Special Rapporteur reported that "[r]ape was systematic and was used as a 'weapon' by the perpetrators of the massacres . . ." and that "[a]ccording to consistent and reliable testimony, a great many women were raped; rape was the rule and its absence was the exception".[41]

"Under-age children and elderly women were not spared. Other testimonies mention cases of girls aged between 10 and 12. Pregnant women were not spared. Women about to give birth or who had just given birth were also the victims of rape in hospitals. Their situation was all the more alarming in that they were raped by members of the militias, some of whom were AIDS virus carriers (as was the case of the national chief of the militias, as several witnesses report). Women who had just given birth developed fulminating infections and died. Women who were "untouchable" according to custom (e.g. nuns) were also involved, and even corpses, in the case of women who were raped just after being killed."

Report on the Situation of Human Rights in Rwanda
Submitted by René Degni-Ségui
Special Rapporteur of the Commission on Human Rights
E/CN.4/1996/68, 29 January 1996, para. 17

The ad hoc war crimes tribunal for Rwanda

Following the creation of an ad hoc tribunal to prosecute suspected war criminals from the Rwanda conflict (Rwanda Tribunal) in November 1994, very few steps were taken to address sexual violence, despite the fact that the Statute of the Rwanda Tribunal provides as much scope for addressing sexual violence as the Statute of the Yugoslav Tribunal. In fact, in addition to listing rape as a crime against humanity as the Yugoslav Statute does, the Rwanda Statute also expressly refers to "rape, enforced prostitution and indecent assault" as violations of Common Article 3 of the 1949 Geneva Conventions and Additional Protocol II.[42] However, little attempt was made seriously to investigate sexual violence. Consequently, no indictments were issued charging rape or other crimes of sexual violence until 1997.[43]

On 23 October 1997, a 35-year-old Tutsi woman known as Witness JJ took the stand and gave evidence in the trial of Jean Paul Akayesu, one of the first defendants to be tried before the Rwanda Tribunal. Akayesu was *bourgmestre* (mayor) of the Taba commune in Rwanda during the genocide. Witness JJ described events that had occurred while she was taking shelter in the Taba commune. She told how the *interahamwe* would come in and take young girls and women into a nearby forest and rape them. Witness JJ described a series of occasions on which she was raped multiple times. She also explains how, by pure chance, she narrowly escaped being massacred along with the other women in the commune, because she was out buying food for her baby when the killings began.

Despite the horrifying nature of the abuses that Witness JJ described, and the need for the international community to acknowledge and redress such suffering, her story very nearly remained untold. The original indictment against Akayesu did not allege sexual violence. The trial commenced, and when other witnesses began to make consistent references in their testimony to widespread sexual violence in the Taba commune it became clear that the issue could no longer be disregarded. At this time, there was also an *amicus curiae* (friend of the court) brief filed by the Coalition for Women's Human Rights in Conflict Situations,[44] which urged the Rwanda Tribunal to request an amendment of the indictment to include sexual violence.[45] There was a break in the trial, and when it resumed in October 1997, Akayesu was facing an amended indictment which included charges of sexual violence against

displaced women who sought refuge at the Taba commune. It is not alleged that Akayesu personally committed any acts of sexual violence, but rather that he is responsible for acts of sexual violence committed by others because he was present and was in a position of authority, but failed to take any action to prevent them.[46]

Factors affecting the response to sexual violence during armed conflict

There are many factors that affect the extent to which sexual violence against women and girls during armed conflict is recognized and addressed. Between Nuremberg and Tokyo on the one hand and the former Yugoslavia on the other, a strong and mobilized feminist movement has emerged that is exerting pressure and demanding redress for atrocities specifically directed at women and girls. Women's NGOs have been instrumental in insisting that steps be taken to address crimes of sexual violence.

However, as the case of Rwanda demonstrates, continued vigilance is required to ensure that sexual violence in all conflicts is addressed. One of the major reasons cited for the failure to address sexual violence in Rwanda is that cultural attitudes inhibited women from talking about what had happened to them. Clearly, cultural factors do influence the way that women react to sexual violence and other traumatic experiences. In many cultures, particularly those in which sexual purity is highly valued, women frequently find it difficult to talk about sexual violence. However, many women in all cultural contexts want to tell their stories, provided that certain measures are taken to minimize the associated trauma. Women must be given a viable choice, and it is up to the international community to demonstrate that the situation of women really can be improved by coming forward. Necessary measures include the use of female investigators and interpreters, and guarantees of appropriate protection for women who testify in court.

The absence of adequate witness protection has been a significant impediment to women testifying before the Rwanda Tribunal. The Rules of Procedure and Evidence of the Rwanda Tribunal provide the same protections to victims and witnesses as the Yugoslav Rules, but witness protection is an extremely difficult issue, requiring cooperation between the local authorities and the Tribunal's witness protection programme. NGO reports suggest that many survivors of sexual violence in Rwanda are inhibited from coming forward due to fear of death, harassment and intimidation. A report titled Witness Protection, Gender and the ICTR has been prepared by the Centre for Constitutional Rights, the International Centre for Human Rights and Democratic Development, the International Women's Law Clinic and MADRE. It asks for the provision of trauma counsellors for women and support persons to accompany witnesses travelling to the seat of the Rwanda Tribunal in Arusha, together with consistent follow-up.[47]

Conclusions: future perspectives

There have been several signs that sexual violence against women during armed conflict will continue to be accorded attention within the UN framework. In addition to the upcoming reports of the Special Rapporteur on violence against women, and the report of the Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during periods of armed conflict, there has been specific consideration given to the impact of armed conflict on girl children. In 1993, the GA requested that a study be carried out on the impact of armed conflict on children, and Ms. Graça Machel was appointed to head the study. Ms. Machel's Final Report recognizes that children, and especially girls, are vulnerable to sexual exploitation in many settings during armed conflict. For example, girls who become child soldiers are frequently subjected to rape and other forms of abuse, as are girls who are refugees or displaced persons. The report states that "[c]hildren may also become victims of prostitution following the arrival of peacekeeping forces."[48] In September 1997 the UN Secretary-General appointed Mr. Olara Otunnu as his Special Representative for Children in Armed Conflict. Sexual violence perpetrated against children falls within the terms of his mandate.

Also of note are the negotiations currently under way for the establishment of a permanent international criminal court (ICC). Proposals for such an institution have been on the UN agenda for over half a century. It appears that, finally, the creation of an ICC is close to reality. In 1994 the International Law Commission delivered its proposed Draft Statute for an International Criminal Court, and further deliberations have taken place in various forums since then. It is antici-

NGOs assisting women in the former Yugoslavia include:

B.a.B.e. (Zagreb)

Centre for Women War Victims (Zagreb)

Humanitarian Law Fund (Belgrade)

Kareta (Zagreb)

SOS (Belgrade)

Tresnjevka (Zagreb)

NGOs assisting women in Rwanda include:

Association de solidarité des femmes rwandaises (Asoferwa)

Association des veuves du génocide d'avril (AVEGA)

Association des volontaires de la paix (AVP)

Benishyaka

Group Kamaliza

Isangano

Pro-Femmes/Twese Hamwe

pated that the statute for the ICC will be adopted during an international conference in Rome in June 1998. Efforts are being made to ensure that sexual violence is expressly included, in an appropriate manner, within the jurisdiction of the ICC. Efforts are also being made to ensure that the mechanisms for initiating investigations and prosecutions are responsive to the seriousness of crimes committed against women. In this respect, gender balance in all areas of the ICC's operation should be a priority. Once again, NGOs have been at the heart of efforts to incorporate a gender perspective into the negotiations surrounding the ICC. In particular, the Women's Caucus for Gender Justice in the ICC has worked extensively to put the issue of women on the agenda during deliberations.[49]

UN Expert Group Meeting on Gender-based Persecution

Toronto, Canada, November 1997 (Excerpts)

Recommendations:

A. Legal Definitions and Standards

- Sex-based crimes be referred to in the Statute of the ICC, but they should not be explicitly defined, so that the legal meaning of these crimes can be informed by the progressive interpretation of international law . . . ;
- Sexual violence be considered to be within the definition of torture for the purposes of the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, 1984.

B. Training, Dissemination and Education

- Adequate professional support and appropriate gender training should be provided for all departments of the ad hoc War Crimes Tribunals and the ICC, especially the Witness Protection Unit of the Registry;
- All UN peacekeepers should receive adequate training in international humanitarian law, human rights law and gender issues. The training and pre-training programmes of UN peacekeepers with regard to their mission should reflect sensitivity to women's particular security rights and be informed on cultural specificities. Trainers should include civilians, women and experts in gender issues. A Code of Conduct for UN peacekeepers should be elaborated, including behaviour of forces with respect to women. Women in afflicted areas should be given training in landmine awareness classes that are accessible to all people.

C. Participation

- Gender balance in international judicial posts should be an explicitly stated goal; gender balance should be a consideration in judicial appointment alongside the existing requirement of geographic distribution, and professional and personal qualities.

D. Implementation, monitoring and accountability

- The international community should take responsibility for the safety of those willing to testify before international tribunals to ensure effective administration of justice. An adequate protection programme for witnesses and potential witnesses and other forms of ancillary services, including physical and mental health, social and other services to promote the interests of witnesses and potential witnesses and to ensure the effective functioning of the ad hoc War Crimes Tribunals and the ICC is essential;
- A trust fund to assist in the provision of financial resources for witness protection and related services should be established;
- Special attention should be directed to long-term health needs such as psychological consequences arising from trauma and the effects of violations of reproductive rights such as being forced into bearing children or being denied the freedom to bear children.

The inclusion of women and armed conflict as one of the 12 critical areas in the Beijing Platform for Action provides an important guarantee that the problem of sexual violence during armed conflict will be accorded priority into the next millennium. One recent initiative in the follow-up to Beijing was the Expert Group Meeting (EGM) convened by the Division for the Advancement of Women, in Toronto, Canada, in November 1997. The topic of the meeting was "Gender-based Persecution". The threat of gender-based persecution, which includes sexual violence, is a risk shared by both women and girls in situations of armed conflict, as well as those who seek to escape armed conflict internally and via refugee flight. The EGM made recommendations, directed at national, regional and international actors, for addressing the problem of gender-based persecution. The recommendations fall under four categories, namely: legal definitions and standards; training, dissemination and education; participation; and implementation, monitoring and accountability.[50]

The Toronto meeting was the first Expert Group Meeting convened by the Division for the Advancement of Women to consider the protection of women during armed conflict, and formed part of the preparations for the forty-second session of the Commission on the Status of Women, held in March 1998. Women and armed conflict was one of four critical areas from the Beijing Platform for Action which was reviewed by the Commission. The 45-member Commission adopted agreed conclusions on the issue of women and armed conflict. The meeting was also part of the Division's contribution to the fiftieth anniversary of

the Universal Declaration of Human Rights.

The conflict in the former Yugoslavia was the catalyst that brought the issue of sexual violence during armed conflict squarely onto the international agenda, but much more remains to be done. Formal recognition of the problem is an important first step, but this must now be translated into a positive outcome for women and girls affected by sexual violence in all armed conflicts.

NOTES

[1] *The Miami Herald*, 18 December 1992, and Die Welt, 1 October 1992, cited in C. MacKinnon, "Crimes of War, Crimes of Peace", in S. Shute and S. Hurley, eds., *On Human Rights: The Oxford Amnesty Lectures 1993*, New York: Basic Books, 1993, p. 83.

[2] Related issues were explored during an Expert Group Meeting on "Male Roles and Masculinities in the Perspective of a Culture of Peace", held by UNESCO in Oslo, Norway, from 24 to 28 November 1997. For further information contact UNESCO, <I.Breines@unesco.org>.

[3] United Nations, *Preliminary Report Submitted by the Special Rapporteur on Violence against Women, Its Causes and Consequences* (E/CN.4/1995/42), 1994, paras. 288 and 290.

[4] J. Gardam, "Women and the Law of Armed Conflict: Why the Silence?" *International and Comparative Law Quarterly*, vol. 46, 1997, p. 55.

[5] United Nations, Declaration on the Protection of Women and Children in Emergency and Armed Conflict, General Assembly resolution 3318 (XXIX), 14 December 1974. See preamble, para. 9 and para 3.

[6] United Nations, *Preliminary Report*, op. cit., para. 271(a).

[7] Declaration on the Protection of Women and Children in Emergency and Armed Conflict, op. cit., para. 4.

[8] United Nations, *Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held in Nairobi from 16 to 26 July 1985; including the Agenda and Nairobi Forward-looking Strategies for the Advancement of Women* (A/CONF.116/28/Rev.1), 1986, para. 41. See also Part III, Peace, para. 243 (recognizing women as one of the most vulnerable groups affected by armed conflict), para. 258 (violence against women), para. 261 (the threat posed to women and children by armed conflict), para. 232 (the obstacle armed conflict poses to the advancement of women) and para. 262 (compliance with international treaties providing protection to women and children during armed conflict).

[9] See United Nations, *Report of the Special Rapporteur on the Situation of Human Rights in Kuwait under Iraqi Occupation* (E/CN.4/1992/26), 1992.

[10] United Nations Compensation Commission Decision No. 3, *Personal Injury and Mental Pain and Anguish*, reprinted in R. Lillich, ed., *The United Nations Compensation Commission*, New York: Transnational Publishers Inc., 1995, p. 404; and United Nations, *Report and Recommendations Made by the Panel of Commissioners Concerning Part One of the Second Instalment of Claims for Serious Personal Injury or Death* (Category "B" Claims) (S/AC.26/1994/4), 15 December 1994, p. 10, para. 17..

[11] United Nations, *Interim Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992)* (S/25274), 10 February 1993, para. 66(c). See also paras. 58-60.

[12] United Nations, *Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992)* (S/1994/674), 24 May 1994 (Annexes, Summaries and Conclusions), 31 May 1995, annex IX, para. 4(a), para. 10, para. 21 and para. 26.

[13] United Nations, *Rape and Abuse of Women in the Territory of the Former Yugoslavia*, Report of the Secretary-General (E/CN.4/1994/5), 30 June 1993, para. 8.

[14] United Nations, *Report on the Situation of Human Rights in the Former Yugoslavia, Submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission of Human Rights, Pursuant to Commission Resolution 1992/S-1/1 of 14 August 1992* (E/CN.4/1993/50), 10 February 1993, para. 84.

[15] United Nations, *Report of the Secretary-General on the Rape and Abuse of Women in the Areas of Armed Conflict in the Former Yugoslavia* (A/51/557), 25 October 1996, para. 23.

[16] International Criminal Tribunal for the Former Yugoslavia, *Bulletin*, No. 7, 21 June 1996, p. 5.

[17] *In re Dragan Nikolic: Indictment* (The Prosecutor v. Dragan Nikolic), 1994, I.C.T.Y. No. IT-94-2-I.

[18] International Criminal Tribunal for the Former Yugoslavia, *Bulletin*, op. cit., p 5.

[19] See *In re Dusan Tadic: Decision on the Prosecutor's Protective Measures for Victims and Witnesses* (The Prosecutor v. Dusan Tadic), 1995, I.C.T.Y. No. IT-94-I-T (Aug. 10); and *In re Blaskic: Decision on the Application of the Prosecutor Dated 17 October 1996 Requesting Protective Measure for Victims and Witnesses* (The Prosecutor v. Blaskic), 1996, I.C.T.Y. No. IT-95-14-T (Nov. 5).

[20] Rule 34, Yugoslav Tribunal Rules.

[21] United Nations, *Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991* (A/49/342, S/1994/1007), 29 August 1994.

[22] *In re Dragan Gagovic and Ors: Indictment* (The Prosecutor v. Dragan Gagovic and Ors), 1996, I.C.T.Y. No. IT-96-23-i (June 26).

[23] International Criminal Tribunal for the Former Yugoslavia, Press Release (CC/PIO/277-E), The Hague, 18 December 1997. Press releases for the Yugoslav Tribunal may be accessed at <http://www.un.org/icty/>.

[24] Article 24(3) of the Yugoslav Statute. Restitution of property is dealt with further in the Yugoslav Rules.

[25] United Nations, Committee on the Elimination of Discrimination against Women, eleventh session, General Recommendation 19 (CEDAW/C/1992/L.1/Add.15), 1992.

[26] J. Connors, "NGOs and the Human Rights of Women at the United Nations", in P. Willetts, ed., *The Influence of Non-Governmental Organisations in the U.N. System*, London, Hurst and Company, 1996, p. 165.

[27] C. Bunch and N. Reilly, *Demanding Accountability: The Global Campaign and Vienna Tribunal for Women's Human Rights* (Rutgers University: Center for Women's Global Leadership, 1994), pp 4-6.

[28] United Nations, *Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights held in Vienna from 14 to 25 June 1993* (A/CONF.157/24), 13 October 1993.

[29] N. Reilly, ed., *Testimonies of the Global Tribunal on Violations of Women's Human Rights at the United Nations World Conference on Human Rights*, Vienna, June 1993. A video of the Tribunal produced by Augusta Productions in collaboration with the Center for Women's Global Leadership. For further information contact the Center for Women's Global Leadership, Douglass College, Rutgers University, 27 Clifton Avenue, New Brunswick, NJ 08903, USA, tel (908) 932-8782, fax (908) 932-1180.

[30] United Nations, Declaration on the Elimination of Violence against Women (A/RES/48/104), 20 December 1993, preamble para. 7 and Article 2.

[31] United Nations, *Preliminary Report*, op. cit., paras. 261-292.

[32] Interview with Radhika Coomaraswamy, *Libertas*, International Centre for Human Rights and Democratic Development, December 1997, vol. 7:2, p. 7.

[33] United Nations, *Preparatory Document on the Question of Systematic Rape, Sexual Slavery and Slavery-like Practices During Wartime* (E/CN.4/Sub.2/1993/44?), 7 September 1993.

[34] United Nations, *Working Paper on the Situation of Systematic Rape, Sexual Slavery and Slavery-like Practices During Wartime, Including Internal Armed Conflict* (E/CN.4/Sub.2/1995/38), 13 July 1995.

[35] United Nations, *Preliminary Report of the Special Rapporteur on the Situation of Systematic Rape, Sexual Slavery and Slavery-like Practices During Periods of Armed Conflict* (E/CN.4/Sub.2/1996/26), 16 July 1996.

[36] United Nations, *Report of the Fourth World Conference on Women held in Beijing from 4 to 15 September 1995, including the Agenda, the Beijing Declaration and the Platform for Action* (A/CONF.177/20), 17 October 1995.

[37] N. Reilly, ed., *Without Reservation: The Beijing Tribunal on Accountability for Women's Human Rights*, Center for Women's Global Leadership, 1996.

[38] Human Rights Watch and Fédération Internationale des Ligues des Droits de l'Homme, *Shattered Lives: Sexual Violence During the Rwandan Genocide and its Aftermath*, September 1996.

[39] United Nations, *Preliminary Report of the Independent Commission of Experts Established in Accordance with Security Council Resolution 935 (1994)* (S/1994/1125), 4 October 1994.

[40] United Nations, *Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 935 (1994)* (S/1994/1405), 9 December 1994, paras. 136-137.

[41] United Nations, *Report on the Situation of Human Rights in Rwanda submitted by Mr. Rene Degni-Ségui, Special Rapporteur of the Commission on Human Rights, under paragraph 20 of resolution S-3/1 of 25 May 1994* (E/CN.4/1996/68), 29 January 1996, para. 16.

[42] The jurisdiction of the Rwanda Tribunal differs from that of the Yugoslav Tribunal owing to the fact that Rwanda is classified primarily as an internal conflict, whereas the conflict in the former Yugoslavia has elements of both internal and international conflicts. Common Article 3 of the 1949 Geneva Conventions and Additional Protocol II apply specifically to internal conflicts.

[43] An indictment charging sexual violence was issued secretly by the Rwanda Tribunal in May 1997, although it was not made public until several months later. See: *In re Pauline Nyiramasuhuko and Arsene Sholom Ntahobali: Indictment* (The Prosecutor v. Pauline Nyiramasuhuko and Arsene Sholom Ntahobali), I.C.T.R.-97-24-I, 26 May 1997.

[44] This coalition is comprised of more than 100 organizations working on issues related to women's human rights in conflict situations, and is coordinated by the International Center for Human Rights and Democratic Development, in Montreal, Canada. For further information about the Coalition, contact Isabelle Solon-Helal via e-mail at <srousse@ichrdd.ca>.

[45] *Amicus Brief Respecting Amendment of the Indictment and Supplementation of the Evidence to Ensure the Prosecution of Rape and Other Sexual Violence Within the Competence of the Tribunal*, May 1997. The amicus brief can be accessed online at <www.hri.ca/doccentre/violence/amicus-brief.shtml>.

[46] *In re Jean Paul Akayesu: Indictment* (The Prosecutor v. Jean Paul Akayesu) (1996) I.C.T.R. No. 96-4-I (Amended June 1997), para. 12(B).

[47] *Libertas*, op. cit., p 4.

[48] United Nations, *Impact of Armed Conflict on Children, Report of the Expert of the Secretary-General, Ms. Graça Machel, Submitted Pursuant to A/RES/48/157* (A/51/306), 26 August 1996, para. 98.

[49] The Women's Caucus for Gender Justice in the ICC can be contacted at (212) 697-7741 or by e-mail at <iccwomen@igc.org>.

[50] For further details, see United Nations Expert Group Meeting on Gender-based Persecution, 9-12 November 1997, (EGM/GBP/1997/Report).

Cover illustration: "Head of a crying woman with a handkerchief (III)", by Pablo Picasso. ©1998 Estate of Pablo Picasso/Artists' Rights Society (ARS, New York.

This issue of ***women*** 2000 *was compiled by the Women's Rights Unit, United Nations Division for the Advancement of Women, with Michelle Jarvis, Consultant.*

*women*2000: Sexual violence and armed conflict: United Nations responses **Questionnaire**

The Division for the Advancement of Women would appreciate your completion of this questionnaire as part of a continuing survey to assess the relevance and quality of *women*2000. The aim is to improve future issues. Your reply will also help to determine the level of interest in this publication. All replies are confidential.

1. **Please rate the quality of *women*2000 by using the following scale:**

5 = excellent 4 = very good 3 = good 2 = poor 1 = very poor N.A. = not applicable.

	5	4	3	2	1	N.A.
Presentation/format	—	—	—	—	—	—
Readability	—	—	—	—	—	—
Timeliness of information	—	—	—	—	—	—
Subject coverage	—	—	—	—	—	—
Objectivity	—	—	—	—	—	—
Quality of information	—	—	—	—	—	—

2. **Rate the usefulness of *women*2000 by using the following scale:**

5 = extremely useful 4 = very useful 3 = useful 2 = not useful enough 1 = not useful at all N.A. = not applicable

	5	4	3	2	1	N.A.
Information	—	—	—	—	—	—
Clarification of issues	—	—	—	—	—	—
Findings	—	—	—	—	—	—

3. **Please provide any further comments you may have on the usefulness of this issue, citing examples where relevant:**

_____

_____

_____

4. **Do others read your copy of *women*2000?** **Many** _____ **A few** _____ **None** _____

5. **Please list any subject areas that *women*2000 should address in future issues:** _____

_____

_____

6. **Please suggest how this issue of *women*2000 could have been improved:** _____

_____

_____

_____

7. **The completion of this section is optional**

Name: _____

Post/Title: _____

Type of Institution/Organization: _____

Name of Institution: _____

Address: _____

Telephone: _____

Fax: _____

E-mail: _____

Please return your completed questionnaire to: Coordination and Outreach Unit, Room DC2-1212
Division for the Advancement of Women
Department of Economic and Social Affairs
United Nations, New York, NY 10017, USA
Fax: (212) 963-3463 E-mail: daw@un.org

Notable Events

2–13 March 1998
Commission on the Status of Women
Forty-second session
UN Headquarters
New York

22 June–10 July 1998
CEDAW
Nineteenth session
UN Headquarters
New York

1–3 July 1998
ECE, ILO and UNCTAD
Workshop on the preparation of the World Survey on the Role of Women in Development
Geneva

31 August–4 September 1998)
DAW and ECLAC
Expert Group Meeting on National Machineries for Gender Equality
ECLAC Headquarters
Santiago de Chile

28 September–2 October 1998
DAW and WHO
Expert Group Meeting on Women and Health—Mainstreaming the Gender Perspective into the Health Sector
Venue to be decided

11-29 January 1999 (dates to be confirmed)
CEDAW
Twentieth session
UN Headquarters
New York

United Nations Division for the Advancement of Women
Internet information resources

To access the information available at the DAW Internet databases, follow the instructions listed below:

To access DAW's World Wide Web site, type on your browser "location box": http://www.un.org/womenwatch/daw
Here you will find links to:

- WomenWatch Internet gateway (http://www.un.org/womenwatch)
- News section (http://www.un.org/womenwatch/daw/news)
- Commission on the Status of Women (http://www.un.org/womenwatch/daw/csw)
- CEDAW (http://www.un.org/womenwatch/daw/cedaw)
- Beijing Declaration and Platform for Action (http://www.un.org/womenwatch/daw/beijing/platform)
- Beijing Follow-Up (http://www.un.org/womenwatch/daw/followup)
- Archives of the Fourth World Conference on Women (http://www.un.org/womenwatch/daw/beijing)
- Calendar of events (http://www.un.org/womenwatch/calendar.htm)
- Publications on women, including back issues of *women2000*. (http://www.un.org/womenwatch/daw/public)

For gopher users, all DAW and FWCW information available at: gopher://gopher.un.org:70/11/sec/dpcsd/daw

For e-mail users: send an e-mail message to gopher@undp.org to receive the content of the DAW and FWCW web and gopher sites. Type in the body of the message: http://www.undp.org/fwcw/daw1.htm

United Nations Division for the Advancement of Women
Department of Economic and Social Affairs
Fax: 1 (212) 963-3463
Home page: http://www.un.org/womenwatch/daw
E-mail: daw@un.org

Published by the Division for the Advancement of Women/DESA • Printed by the United Nations Reproduction Section on recycled paper • 98-06553—April 1998—8M